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Daily Environment Report

Afternoon Briefing - Your Preview of Today's News

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Delaware Wastewater Company Pays $3.5M for Clean Water Crimes

Posted February 03, 2017, 02:36 P.M. ET

By Leslie A. Pappas

An oil and waste water recycling company in Wilmington, Del., will pay the city $3.5 million for environmental crimes including conspiracy to violate the Clean Water Act, according to the EPA (United States v. Int'l Petroleum Corp. of Delaware, D. Del., No. 1:16-cr-00097-U, Information 12/16/16).

International Petroleum Corp. of Delaware, an oil processing and wastewater treatment plant located close to the Delaware River, was ordered Feb. 2 by U.S. District Court Judge Gregory M. Sleet to pay a $1.3 million fine and $2.2 million in restitution.

The facility had a federal permit to process used oil and wastewater contaminated with hydrocarbons, and discharge specified amounts and concentrations of treated wastewater into the city's sewer system. The company admitted that from 1992 through 2012, it consistently tampered with water monitoring samples, rendering them inaccurate.

The company admitted to conspiring to violate the Clean Water Act, and also to violating the Resource Recovery Conservation Act for transporting hazardous waste in 2012 without a permit.

In a separate but related case, one of the plant's managers, Ricky Clinton Mitchell, pleaded guilty in January 2016 to conspiring to violate the Clean Water Act by tampering with monitoring methods (United States v. Mitchell, D. Del., No. 1:15-cr-00066-GMS, plea hearing 1/6/16).

Mitchell told the court that it was standard practice for the company to tamper with monitoring samples to make the water being discharged look cleaner than it actually was, according to court documents.

Multiple attempts by Bloomberg BNA to reach the company by phone on Feb. 3 were unsuccessful.

EPA Requests $4.3 Million in Ohio Superfund Settlement

Posted February 03, 2017, 11:25 A.M. ET

By Sylvia Carignan

The EPA is proposing to settle $4.3 million in Ohio Superfund site cleanup costs with a company through bankruptcy court (In re SRC Liquidation LLC, Bankr. D. Del., No. 15-10541-BLS, 1/19/17).

The site is the 102-acre North Sanitary Landfill, also known as the Valleycrest Landfill, in Dayton, Ohio. According to the Environmental Protection Agency, landfill operations there contaminated soil and groundwater, leaving residents with contaminated drinking water wells.

Sampling of drums on site found elevated concentrations of volatile organic carbons, including trichloroethylene (TCE), as well as metals and polychlorinated biphenyls (PCBs).

The settlement agreement, announced in the Federal Register Feb. 3, would resolve claims against SRC Liquidation LLC for the cost of past and future cleanup there.

SRC Liquidation has filed with the U.S. Bankruptcy Court for the District of Delaware for relief under Chapter 11. The proposed settlement agreement is subject to the court's approval.

An attorney representing SRC Liquidation did not respond to Bloomberg BNA's request for comment.

The Department of Justice is accepting public comments on the proposed settlement until March 6.

The agency started investigating the site in 1986. The site was placed on the National Priorities List in 1994.

House Votes to Nullify Bureau of Land Management Methane Rule

Posted February 03, 2017, 11:28 A.M. ET

By Alan Kovski

The House voted Feb. 3 to rescind a federal rule on the venting, flaring and leaking of natural gas from oil and gas operations on federal and Indian lands.

The vote was 221-191. The Senate was prepared to follow soon with a vote of its own, both houses using the procedures of the Congressional Review Act.

The Bureau of Land Management issued the rule in November and defended it as an effort to reduce waste and boost royalties. Industry critics said it actually would reduce royalties by forcing the closure of many wells to avoid additional layers of expense.

Pollution vs. Cost Argument

The House spent almost an hour debating the subject, with Reps. Alan Lowenthal (D-Calif.) and Rob Bishop (R-Utah) deploying the well-established arguments for and against the rule (RIN:1004-AE14).

Lowenthal emphasized the human health risks of air pollution associated with volatile organic compounds. Methane is the chief component of natural gas, but several other compounds can escape along with methane and contribute to lung disease.

Bishop said the rule was expensive and redundant, especially given that natural gas emissions have been going down and are better regulated by states. He also said the rule exceeded BLM's authority.

If the BLM genuinely wants to reduce waste, it should authorize the pipeline rights-of-way that would allow more gas to be captured and shipped to markets rather than flared, Bishop said.

FERC Delegates Responsibilities to Staff in Absence of Quorum

Posted February 03, 2017, 12:07 P.M. ET

By Rebecca Kern

The Federal Energy Regulatory Commission issued an order delegating more authorities to staff—including the acceptance and suspension of rate filings—as the agency prepares to be without a quorum of three members after today.

Commissioner Norman Bay, formerly FERC chairman, is leaving the agency Feb. 3, meaning it will be down to two members—Chairman Cheryl LaFleur and Commissioner Colette Honorable. Without three members, FERC won't be able to approve new gas pipeline applications.

The new order, which takes effect Feb. 4, allows the director of the Office of Energy Market Regulation to accept and suspend rate filings and make them effective subject to refund and further commission action.

Additionally, the director of the Office of Energy Market Regulation can accept settlements that are uncontested by any party, as well as grant waivers for requests on uncontested filings for terms and conditions of tariffs, rate schedules and service agreements.

The order also allows FERC staff to grant time extensions as permitted by statute.

The bulk of Trump's chosen appointees await Senate confirmation. Even a speedy confirmation process could take 30 to 60 days, David Wochner, a partner at the Washington-based law firm K&L Gates, previously told Bloomberg. That may lead to costly delays for companies awaiting their pipeline certificates.

Zinke Can Balance Interior's Competing Interests: Montanans

Posted February 03, 2017, 7:00 A.M. ET

By Alan Kovski

The man in line to become the next Interior secretary grew up in a part of Montana that has evolved over the past several decades from a dependence on timber cutting and other resource development to one more oriented toward skiing, hiking and fishing.

Those diverse activities are part of the balancing act managed by the Interior Department, where Rep. Ryan Zinke (R-Mont.) will soon be working if the Senate confirms him as Interior secretary. Two Montanans who know him say they think he is up to the job.

“He’s a great guy. It really was great working with him,” said Clayton Elliott, executive director of Montana Conservation Voters, an advocacy group.

Elliott told Bloomberg BNA he got to know Zinke in 2011 when Zinke was in the Montana Legislature and Elliott was a lobbyist for conservationists. He worked closely with Zinke on a range of issues, he said.

He described Zinke as a pragmatic straight shooter who wanted to solve problems.

Resource Management Bills

The Senate Energy and Natural Resources Committee approved Zinke’s nomination on a 16-6 vote Jan. 31. Action on his nomination by the full Senate has not yet been scheduled.

In Congress, some of Zinke’s votes have troubled environmental activists, Elliott said. Zinke tended to get good ratings from environmental activists when he was in the state legislature and has gotten lower ratings since entering Congress.

Elliott remembers working with Zinke on efforts to protect the progress Montana had made on using renewable energy.

In 2015 and 2016 Zinke introduced bills to streamline environmental reviews for forest-management projects and provide litigation relief for the U.S. Forest Service and the Bureau of Land Management in their land management projects. Such changes tend to be opposed by environmental activists, who want to keep open the option of litigating against projects, especially those involving logging.

The congressman also introduced a bill on the subject of mineral leasing and royalties that reflected state and tribal concerns about the coal leasing moratorium initiated by the Obama administration. He did not oppose the moratorium, but his bill would have mandated an end date (Jan. 15, 2019) for the moratorium and would have allowed leases to be issued for applications already under review.

‘Ryan’s Not Easily Rattled’

Zinke is well-suited to the balancing act expected of an Interior secretary, in the view of Jason Thielman, chief of staff to Sen. Steve Daines (R-Mont.).

Thielman knows Zinke personally and grew up in the same area of Whitefish, Mont., next door to Glacier National Park. It probably was the mountainous environment that inspired Zinke to get a geology degree, Thielman said.

Zinke also is an outdoorsman. “It’s hard not to be, with where he grew up,” Thielman said.

Much has been made of the fact that he was a Navy SEAL for 23 years and served in Iraq during part of that time. He is experienced with stress. “Ryan’s not easily rattled,” Thielman said.

Zinke is likely to hear criticism from many sides if he becomes Interior secretary and must preside over the divvying up of federal lands for various uses—frustrating resource corporations with some decisions, conservationists with other decisions.

“Enduring those slings and arrows is something he’s comfortable doing, doesn’t take personally,” Thielman said.

EU Carbon Allowances Post Weekly Gain as Colder Weather Seen

Posted February 03, 2017, 02:02 P.M. ET

By Mathew Carr

European Union carbon allowances gained for the second time in three weeks as colder weather is forecast for next week, boosting energy demand for heating.

Benchmark December allowances rose 5.7 percent this week as the average temperature across Europe is forecast to fall below freezing after a warmer than usual start to February.

Allowances advanced as Malta, the holder of the EU’s rotating presidency, retained a draft proposal to temporarily double to 24 percent the pace at which a planned market reserve absorbs allowances accumulated in the market. The program, which is to begin in 2019, would erode the glut in the market that’s prevented permit prices from rising to levels that discourage the burning of fossil fuels.

The market’s rules need changing to make it “mature” to the point where it encourages investment in emission-reduction projects, said Jan Kresnik, a portfolio manager at Belektron d.o.o. in Ljubljana, Slovenia, which helps handle trades between utilities, airlines and banks.

Malta sent nations a new draft text on the positions of member states on post-2020 reform of the market, according to people familiar with the matter who asked not to be identified, citing policy. The higher rate of uptake into the Market Stability Reserve is proposed for the 2019-2023 period, they said.

Representatives of member states in a working group plan to discuss the updated presidency text on Feb. 6.

Carbon fell 0.4 percent to 5.21 euros ($5.62) a ton on the ICE Futures Europe exchange in London on Feb. 3 at 4 p.m., trimming the weekly gain.

Aggregate volume dropped 29 percent week-on-week to 53.5 million tons, the lowest since Dec. 30, ICE data show. Trading on ICE declined a third year last year.

In options trading, the volume of options to buy outpaced options to sell, as total trading dropped a third week, according to ICE.

EU Opts to Wait and See on Aviation Emissions

Posted February 03, 2017, 01:03 P.M. ET

By Stephen Gardner

Intercontinental flights departing from or landing in the European Union would continue to be exempted from the bloc's emissions-trading system (ETS), at least until the details of an international scheme to control greenhouse gases from aviation become clearer, according to a draft European Commission regulation published Feb. 3.

The regulation would amend the EU ETS Directive (2003/87/EC) so that intra-EU flights continue to be covered by the ETS, but intercontinental flights would not be reincorporated while the International Civil Aviation Organization (ICAO) works out the specifics of its Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA).

ICAO agreed in October 2016 that any emissions from aviation above the 2019-2020 level will after 2020 be compensated for by credits from projects that reduce emissions in other sectors, making growth in flights between countries theoretically carbon-neutral.

Until 2027, participation in CORSIA is voluntary, but many of the main aviation countries, including the EU countries and the United States, will take part. However, some large countries, including India and Russia, will not participate in the voluntary stage.

A commission official speaking on condition of anonymity at a briefing in Brussels said that CORSIA had been "agreed in its broad outlines," and the commission would again review whether to include intercontinental flights in the ETS once the details of CORSIA become clearer.

European Parliament Opposition?

The commission's proposal to continue to exempt long-haul flights from the ETS is likely to be opposed by some European Parliament lawmakers.

Under a 2008 EU directive approved by the parliament (Directive 2008/101/EC) all flights arriving at or leaving EU airports were to be included in the ETS starting in 2012, meaning their emissions would be subject to caps and they would have to obtain additional carbon credits for any emissions above those caps.

However, many countries, including China, India and the U.S., pressured the EU to exempt intercontinental flights pending ICAO talks on an international emissions-limiting mechanism. Ultimately, the EU adopted measures, known as "stop-the-clock," under which intercontinental flights were not included in the ETS, though intra-EU flights are included.

A number of EU lawmakers have criticized CORSIA as an offsetting scheme that will not prevent growth of aviation emissions, and have said the EU should be prepared to end the stop-the-clock exemption.

Bas Eickhout, a Dutch Green member of the European Parliament, said in a statement Feb. 3 that CORSIA is "weaker than the ETS and many big countries such as China, India and Russia are already threatening to not participate."

"The EU should get on with its original goal of putting a fair price on aviation emissions, and delivering against its climate ambitions," Eickhout said.

Peter Liese, a German member of the European Parliament's largest political group, the center-right European People's Party, said "there are a lot of problems with this CORSIA," including whether or not offsets generate real emissions reductions. "Some colleagues say this is just a fake," Liese said.

Compromise Proposal

Liese added that an "intelligent compromise" would be to "continue to exempt intercontinental flights until 2021, but then reinstate them if the ICAO rules are not clear."

From 2021, "we should also include flights to countries which, like Russia, refuse to join the ICAO agreement," Liese said.

"If third countries just do nothing, why shouldn't we introduce our scheme, which has been proved legally right?" he added. The EU Court of Justice in 2011 ruled in a case brought by a number of U.S. airlines that intercontinental flights of non-EU operators could be brought into the ETS.

The commission official told Bloomberg BNA that countries not participating in the voluntary stage of CORSIA, such as India and Russia, "have not objected to the system as such," and would be covered by CORSIA when it becomes mandatory in 2027.

The ICAO decision to establish CORSIA was "a very credible commitment" that the commission wanted to support, and the commission therefore did not believe that the stop-the-clock exemption should be ended, the official said.

2018 Deadline

The official added that the European Parliament and the Council of the EU, which represents the governments of member countries, should agree on the stop-the-clock extension "by the end of the year or at least early 2018."

Unless the extension is formally approved by then, intercontinental flights would automatically be reincorporated in the ETS, and would in spring 2018 have to account for their emissions during 2017 and surrender sufficient carbon permits.

Liese said the commission proposal was "a good basis for deliberations in the parliament, but we will examine it very closely and, in particular, continue to exert pressure for ambitious climate protection measures in intercontinental flights."

Simon McNamara, director general of industry group the European Regions Airline Association, said airlines faced being covered by both the ETS and CORSIA for intra-EU flights.

"We would like to see a further commitment that ultimately the EU ETS will be replaced by CORSIA," McNamara said.

Tightening Emissions Cap

Intra-EU aviation in currently subject to a emissions cap through 2020 that is about 5 percent below the sector's 2004-2006 average annual emissions.

The commission's regulation would also clarify that this cap would reduce by 2.2 percent per year from 2021, in line with the annual reduction required of power stations and heavy industry under the ETS.

Bill Hemmings, director of aviation at advocacy group Transport & Environment, said "reducing aviation's emissions cap fixes a bizarre situation where we had a cap-and-trade system with no declining cap."

Liese said the tightening of the cap for aviation from 2021 was welcome because the current system in which the cap does not decline is "unfair to other sectors, like the steel industry, where many people are worried about their jobs."

U.K. Power Capacity Auction Clears at Lower-Than-Expected Price

Posted February 03, 2017, 01:48 P.M. ET

By Andrew Reierson and Mathew Carr

Britain's auction for contracts paying operators to keep power plants open for a year from October cleared below estimates by analysts ranging from Sanford C. Bernstein Ltd. to RBC Capital Markets and Bloomberg New Energy Finance.

The U.K. secured about 53.6 gigawatts of power plant capacity at 5-10 pounds ($6-12) a kilowatt for the year, National Grid Plc, which organized the auction, said in a statement. Analysts at Bernstein and Macquarie Group Ltd. expected a price of 20 pounds a kilowatt, while RBC predicted about 16 pounds. BNEF was at 19 pounds.

The capacity auction was first due to support generators from 2018—until the government decided to bring it forward. A decline in supply margins prompted the network operator to issue at least two warnings this winter when demand looked likely to outstrip supply.

Some older coal and natural gas stations will probably close after the auction because of the low price, according to Andreas Gandolfo, an analyst at Bloomberg New Energy Finance in London. Still, the price may be high enough to spur the early opening of some new plants already under construction, he said.

The U.K. government created the auctions in 2014 as a way to guarantee that electricity infrastructure is available to cope with future peaks in power demand. Winning bidders get a payment for keeping power stations available even if they aren't generating.

The results are preliminary and need to be confirmed by the Secretary of State. More details are to be published Feb. 3.

Brexit Markets Give the U.K. Solar Industry Moment in the Sun

Posted February 03, 2017, 7:18 A.M. ET

By Anna Hirtenstein

Brexit has brightened the outlook for U.K. solar funds, with higher power prices lifting earnings for the industry and burnishing its attraction for investors seeking to insulate themselves from political upheaval.

Trading volumes at three London-listed U.K. solar funds more than doubled in the six months after

June's referendum calling on Britain to exit the European Union compared with the first half of the year, according to data compiled by Bloomberg. The top-performing NextEnergy Solar Fund Ltd. returned 18 percent since the vote. All the funds beat the 11 percent gain of London's FTSE 100 Index.

"Brexit is of course not so good in general, but it's good for solar," said Michael Bonte-Friedheim, founding partner and chief executive officer of NextEnergy Solar Fund Ltd. "With the low interest rates, investors searching for returns come to us."

for its overcast skies, the U.K. became one of Europe's hottest solar markets after offering incentives for the industry in 2010. About 9.2 gigawatts of photovoltaics sprung up across the country as a result—about the capacity of seven nuclear reactors—according to data compiled by Bloomberg New Energy Finance. While the government has slashed support for the industry since, the funds have taken on a life of their own because of the wider climate for investing.

"There's a combination of positive factors for us," said Giovanni Terranova, founding partner at Bluefield Partners LLP. "Power prices are up. Interest rates are down. U.K. investors avoiding taking exposure overseas are looking for yield at home. There are also opportunities for foreign investors at a discount because of the currency."

The pound has dropped almost a fifth since a majority of voters chose to leave the European Union last June. The currency depreciation has fueled rising power prices and, in turn, lifted the amount revenue generated by funds holding solar assets. The funds typically sign power-sale agreements 12 to 48 months in advance, so higher prices will benefit investors in the medium-term after new contracts are signed.

"The solar funds may be benefiting from enthusiasm from U.K.-based investors seeking protection from pound inflation," said Jenny Chase, head of solar analysis at Bloomberg New Energy Finance in Zurich. "Feed-in tariffs are also adjusted for inflation."

The Bank of England's decision last year to cut rates in an effort to boost the U.K. economy in anticipation of Brexit-related issues has also benefited solar funds.

The listed funds, which funnel cash from solar electricity sales back to their shareholders, appeal to investors hunting for dividends. They typically pay 5.75 pence to 7.25 pence a share quarterly. The Bluefield Solar Income Fund Ltd. provided the top dividend yield, returning 6.7 percent during the past 12 months, according to data compiled by Bloomberg.

NextEnergy has attracted new investors in recent months, according to NextEnergy CEO Bonte-Friedheim. He's planning to expand the U.K. portfolio by adding 180 megawatts this year, raising assets under management to about 600 megawatts.

Uranium Rebound Threatened by Fukushima Years After Meltdown

Posted February 03, 2017, 8:45 A.M. ET

By Tsuyoshi Inajima and Aaron Clark

Japan's Fukushima meltdown may challenge uranium again just as the nuclear fuel shows signs of recovery after the 2011 disaster sent prices on a six-year slide.

Tokyo Electric Power Co. Holdings Inc. confirmed Feb. 2 that it declared force majeure on deliveries, while Tohoku Electric Power Co. said it's in talks to delay shipments from its own suppliers. That could halt the fuel's 42 percent gain since falling to a 12-year low in November, according to VSA Capital Ltd., an investment bank focusing on natural resources.

"This nips that rally right in the bud," said Paul Renken, a senior geologist with VSA Capital in London. "Right now we are dealing with significant excess capacity still in the global uranium output space."

The uranium market has struggled since the tsunami and meltdown crippled Tokyo Electric's Fukushima-Daiichi plant. Japan, once Asia's biggest producer of nuclear power, shut all its reactors for safety checks in the years following the disaster and public opposition has slowed bringing them back online.

Tokyo Electric, known as Tepco, notified Canada's Cameco Corp. that its nuclear power plants not operating for more than 18 months because of 2011 Fukushima disaster and ensuing regulations meet the force majeure criteria in the contract, valued at about C$1.3 billion ($994 million).

While other Japanese utilities are restructuring their deals, they aren't expected to follow Tepco's lead, Tim Gitzel, Cameco's president, said on a conference call, adding the company will resolve the dispute "through a legal process."

"I'm sure many will look at this case and see how it proceeds," Rob Chang, head of metals and mining at Cantor Fitzgerald LP in Toronto said in an e-mail. "If Cameco loses, I would not be surprised if others joined in."

If Cameco's contract to supply Tepco is terminated, as much as 800,000 pounds a year of uranium may be added to the market over the next 12 years unless the Canadian miner cuts production, Chang said.

Tohoku Electric Power is taking the minimum amount of uranium its contractually obligated to buy and is in talks to postpone delivery of the fuel, spokesman Tomoya Satake said Feb. 2, declining to identify suppliers.

Chubu Electric Power Co. is in talks to delay uranium shipments, spokesman Keita Iida said. Kansai Electric Power Co. is buying the minimum amount of uranium allowed under its supply deals, spokesman Yusuke Onishi said.

Meanwhile, Kyushu Electric Power Co., which is one of only two companies currently operating plants in Japan, has no plans to terminate contracts as it's restarted two reactors and is making progress on two more, according to spokesman Masatoshi Hasako.

Uranium spot prices this year have rallied, helped higher by supply cuts in Kazakhstan, the world's biggest producer. State-owned Kazatomprom said last month that it will trim output this year by more than 2,000 tons, or about 10 percent. The drop is equivalent to about 3 percent of global production in 2015, the company said at the time.

Japan's utilities are sitting on more than 130 million pounds of uranium, enough to power the nations reactors for at least six years, according to estimates in November 2016 by Ux Consulting

Co.

Japan has two reactors in operation, while a third was shut in December for planned maintenance that's expected to last three months. The country has 42 operable reactors.

"Given the anemic restart environment in Japan, the market is now likely to fear similar actions by other Japanese utilities," Orest Wowkodaw, an analyst at Bank of Nova Scotia, wrote in a note Feb. 1.

—With assistance from Ben Sharples, Steven Frank and Stephen Stapczynski.